

REMARKS

With the entry of the present amendment, Claims 1, 4, 5, 8, 21 and 22 remain pending in this application. Claims 9 and 10 stand withdrawn as directed to a non-elected species.

In the Office Action dated June 18, 2007, Claims 1 and 4-8 were rejected under 35 U.S.C. § 103 as being obvious over U.S. 3,852,540 to Diethelm ("Diethelm") in combination with U.S. 4,870,688 to Voroba *et al.* ("Voroba"); Claim 21 was rejected under 35 U.S.C. § 103 as being obvious over Diethelm and Voroba in combination with U.S. 2,487,038 to Baum ("Baum") and U.S. 2,246,737 to Knudsen ("Knudsen"); and Claim 22 was rejected under 35 U.S.C. § 103 as being obvious over Voroba in combination with U.S. 4,736,430 to Schroder ("Schroder"). For the following reasons, it is respectfully submitted that these rejections are all overcome, and that all the pending claims are allowable.

Independent Claim 1 has been amended to recite a modular hearing aid that comprises a base unit adapted to contain any of a microphone, a receiver, a battery, electronics and controls, and wherein the base unit can be replaced after use; and an earmold unit removably attached to the base unit, the earmold unit comprising a compliant material and having a shorter useful life than the useful life of the base unit, the earmold unit further comprising a retention mechanism for connection to the base unit such that the earmold unit can be connected to the base unit or removed from the base unit and replaced after use on a more frequent basis than the replacement of the base unit, the earmold unit adapted to contain a battery and a hearing aid component non-removably integrated within the earmold unit, the hearing aid component comprising at least one of a receiver, and hearing aid electronics.

Independent Claim 4 has been amended to recite a modular hearing aid that comprises a base unit adapted to contain any of a microphone, electronics and controls; and an earmold unit removably attached to the base unit, the earmold unit comprising a compliant material, a retention mechanism for connection to the base unit such that the earmold unit can be connected to the base unit or removed from the base unit and replaced after use, and the earmold unit comprising both a battery and a receiver non-removably integrated with the earmold unit.

Independent Claim 21 has been amended to recite a modular hearing aid that comprises a base unit adapted to contain a microphone and electronics; and an earmold comprising a

compliant material, the earmold being non-removably integrated with a battery and a receiver, the earmold having a flexible, mushroom shaped earmold tip adapted to create a seal with the bony portion of the ear canal, the earmold further comprising a retention mechanism for connection to the base unit such that the earmold can be connected to the base unit or removed from the base unit and replaced after use.

Independent Claim 22 has been amended to recite a method for replacing an earmold of a modular hearing aid that comprises providing a modular hearing aid having a base unit and an earmold comprised of a compliant material and having a shorter useful life than the useful life of the base unit, the earmold adapted to contain a battery and a receiver non-removably integrated within the earmold; releasing a securing mechanism between the earmold and the base unit, the securing mechanism capable of being released by a user without the use of a separate tool or instrument; removing the earmold from the base unit; discarding the earmold; placing a second earmold onto the base unit; and attaching the securing mechanism.

With the entry of this amendment, Claims 2, 3, 6, 7, 11, 12, 14, 16-20, 25, 27-39, 41, 42, 44, 46-48, 50-54, and 58-63 have been cancelled without prejudice towards their re-submission in this application or in any continuing applications.

It is respectfully submitted that the presently amended claims are patentable over the cited prior art references, and that the present claim rejections are all overcome.

Claim 1 was rejected as being obvious over Diethelm and Voroba. However, neither of these references teach or suggest an “earmold unit adapted to contain a battery and a hearing aid component non-removably integrated within the earmold unit,” as is recited in amended Claim 1. In fact, both of these references teach away from this feature of Claim 1. Diethelm teaches at col. 4, lines 11-14 that the “removal and exchange of the voltage source 8” (*i.e.* the battery) is accomplished “quickly and without effort” by separating the two housing parts 1, 2. Voroba describes a hearing aid having electrical and mechanical components “including a replaceable battery” contained within a prefabricated earshell assembly. (Col. 1, lines 16-22). Voroba further teaches that the “[b]attery source 80 is removably housed in the cover 100 by battery compartment 82.” (Col. 8, lines 44-45). Thus, the combined teachings of the cited references would direct one skilled in the art away from the presently claimed invention, which includes, *inter alia*, “earmold unit adapted to contain a *battery* and a hearing aid component

non-removably integrated within the earmold unit.” Accordingly, it is believed the rejection of Claim 1 has been successfully traversed, and that Claim 1 and its dependent claim, Claim 8, are allowable. It is further requested that withdrawn Claims 9 and 10, which depend from Claim 1, be rejoined with this application, since allowable Claim 1 is generic to Claims 9 and 10.

Claim 4 was rejected as being obvious over Diethelm and Voroba. However, neither of these references teach or suggest the limitation that “the earmold unit compris[es] both a *battery* and a receiver *non-removably integrated within the earmold unit.*” In fact, as discussed above in connection with Claim 1, both Diethelm and Voroba teach away from a battery that is non-removably integrated within an earmold unit. Accordingly, it is submitted that the rejection of Claim 4 is overcome, and that Claim 4 and its dependent, Claim 5, are allowable.

Claim 21 was rejected as being obvious over Diethelm, Voroba, Baum and Knudsen. Claim 21 recites a modular hearing aid that comprises, *inter alia*, an “earmold being non-removably integrated with a battery and a receiver.” For the reasons discussed above in connection with Claims 1 and 4, this feature is not taught or suggested in Diethelm or Voroba, and in fact, these references teach away from this limitation. Moreover, the deficiencies of Diethelm and Voroba are not overcome by the Baum and Knudsen references. Baum relates exclusively to a design for an ear insert for transmitting sound, and does not teach or remotely suggest an earmold that is non-removably integrated with a battery and a receiver. Similarly, Knudsen relates exclusively to “ear protectors,” and fails to describe numerous limitations of Claim 21, including an earmold that is non-removably integrated with a battery and a receiver. Accordingly, it is respectfully submitted that the rejection of Claim 21 is overcome, and that this claim is allowable.

Claim 22 was rejected as being obvious over Voroba and Schroder. Claim 22 recites a method for replacing an earmold of a modular hearing aid, and includes the limitation of “an earmold adapted to contain a battery and a receiver non-removably integrated within the earmold.” As previously discussed, this feature is not taught or suggested by Voroba, which teaches away from a battery that is non-removably integrated within an earmold. This deficiency of Voroba is not overcome by the secondary Schroder reference. Schroder teaches a hearing aid having a “battery flap 21” on the housing, where the battery flap “can be pivoted outwardly from the housing to provide access to a battery compartment 22.” (Col. 2, lines 33-38). Thus,

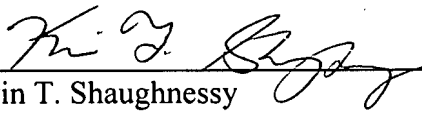
Schroder teaches a conventional hearing aid with a *replaceable* battery, and does not teach or suggest the presently claimed invention. It is therefore submitted that the combination of Voroba and Schroder does not render Claim 22 obvious, and that this claim should be allowed.

CONCLUSION

In view of the above amendments and remarks, it is believed that all claims are in condition for allowance, and it is respectfully requested that the application be passed to issue. If the Examiner feels that a telephone conference would expedite prosecution of this case, the Examiner is invited to call the undersigned.

Respectfully submitted,

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.

By 
Kevin T. Shaughnessy
Registration No. 51,014
Telephone: (978) 341-0036
Facsimile: (978) 341-0136

Concord, MA 01742-9133

Date: 10/23/07